



## Mars Khaimov Law, PLLC

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### VIA ECF

The Honorable Katherine Polk Failla  
United States District Judge  
40 Foley Square  
New York, NY 10007

February 6, 2023

Re: *Dicks v. Rock Diamond Corp.*  
Case No. 1:22-cv-8037-KPF

**MEMO ENDORSED**

Dear Judge Failla:

Plaintiff submits this letter-motion to seek an adjournment of the initial pretrial conference, currently scheduled for February 10, 2023. Plaintiff has not completed service upon the Defendant yet, nor has Defendant reached out to Plaintiff regarding this suit. To that end, Plaintiff further moves for an extension of time to complete service, up to and until March 6, 2023. As per FRCP Rule 4(m), Plaintiff's time to effectuate service upon the Defendant expired on December 20, 2022. However, Plaintiff maintains that the delay to serve is not the fault of Plaintiff, but rather a third-party process server. Plaintiff has been notified by the process server herein that the Defendant could not be located, however the process server misread the name of Defendant's business and, therefore, was erroneous in that assertion. If granted, Plaintiff will employ a different process server to complete service herein.

As such, Plaintiff requests an adjournment of the initial pretrial conference to April 6, 2023, for service to be completed and for Defendant to have an opportunity to answer herein. This is the first time this relief is being requested.

Plaintiff thanks the Court for its consideration herein.

Respectfully submitted,

**MARS KHAIMOV LAW, PLLC**

/s/ Mars Khaimov  
Mars Khaimov, Esq.

Attorneys for Plaintiff

Application GRANTED. The initial pretrial conference scheduled for February 10, 2023, is hereby ADJOURNED to **April 12, 2023, at 3:00 p.m.** The Clerk of Court is directed to terminate the pending motion at docket number 6.

Dated: February 7, 2023  
New York, New York

SO ORDERED.

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE